



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 15.07.2016

CORAM:

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THE HONOURABLE MR. JUSTICE K.KALYANASUNDARAM

C.M.A. (MD) No. 579 of 2016
and
C.M.P. (MD) No. 6691 of 2016

Tamil Nadu State Transport
Corporation Limited,
through its Managing Director,
having office at Vannarpettai,
Tirunelveli.

.. Appellant/Respondent

Vs.

Minor Manju
(represented by her father Selvam)

.. Respondent/Petitioner

Prayer: Appeal filed under Section 173 of Motor Vehicles Act, against the fair and decretal order, dated 09.02.2015, made in M.C.O.P.No.393 of 2014 on the file of the Motor Accidents Claims Tribunal/ Special Sub Court, Tirunelveli.

For Appellant : Mr.P.Prabhakaran

For Respondent : Mr.M.P.Senthil

O R D E R

Aggrieved over the award passed by the Motor Accidents Claims Tribunal, Special Sub Court, Tirunelveli in M.C.O.P.No.393 of 2014, dated 09.02.2015, the State Transport Corporation has filed the present appeal.

2. Case in brief are as follows:

On 22.07.2013, at about 05.20 p.m., the claimant was waiting at Kayathar new bus stand for boarding the bus to go to her village, namely Manangkathan, after attending school. When she was attempting to enter into the bus, the driver suddenly moved the bus in a rash and negligent manner. In that process, she fell down and the left back side of the tyre ran over her both legs. She was immediately taken to Gokulam Hospital at Kayathar for <https://hcservices.courts.gov.in/hcservices/> subsequently, she was admitted in Tirunelveli Government Medical College Hospital and she was discharged only on 03.10.2013. Alleging that the driver of the bus was responsible



for the accident, a petition was filed claiming compensation of Rs.5,00,000/-.

3. The claim petition was resisted by the respondent disputing the manner of the accident and their liability.

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4. It is seen from the records that the claimant was 14 years old at the time of accident and she was studying 8th standard in Kattabomman Higher Secondary School at Kayathar and after attending the school, when she was returning to her home, this accident had taken place. The claimant has examined PWs 1 and 2 and marked Ex.P1 FIR, Ex.P2 discharge summary, Ex.P3 Report of the Motor Vehicles Inspector, Ex.P4 sketch, Ex.P5 observation mahazer, and Ex.P6 copy of the charge sheet to prove that the accident had taken place due to the negligence of the driver of the bus.

5. The Tribunal accepting both oral and documentary evidence, held that the driver of the bus has caused the accident.

6. Ex.P2, discharge summary, would show that the claimant has sustained grievous injuries. PW3, Dr.Ramaguru has given evidence stating that the claimant has sustained crush injury on both her legs and she is having constant pain on her legs and the wound are not yet healed. Ex.P9 is X-ray. PW3 has given disability certificate.

7. The Tribunal placing reliance on the decision of the Supreme Court in the case of *Master Mallikarjun vs. Divisional Manager, National Insurance Company Limited and another, 2013(2) TNMAC328*, held that the claimant is entitled for Rs.4,00,000/- towards pain and suffering, loss of amenities, etc. In addition, the Tribunal awarded Rs.25,000/- towards loss of income to her parents and Rs.50,000/- towards past and future medical expenses, totally Rs.4,75,000/-.

8. Heard both sides and perused the materials available on record.

9. Learned counsel for the appellant contended that the award of Rs.25,000/- towards loss of income to the parents cannot be sustained and the award in that head is excessive.

10. As rightly contended by the learned counsel for the appellant, the award passed under the head of loss of income to the parents cannot be sustained and hence the same is deleted. Accordingly, the award is modified that the claimant would be entitled to get a compensation of Rs.4,50,000/-, the interest at the rate of 9% per annum, awarded by the Tribunal is also maintained.



11. In the result, this appeal is partly allowed. The appellant State Transport Corporation shall deposit the modified award amount along with the proportionate interest and cost within a period of eight weeks from the date of receipt of a copy of this order. On such deposit being made, the Claims Tribunal is directed to deposit the award amount of the minor claimant in any one of the Nationalised Banks, in fixed deposit, initially for a period of three years, renewable thereafter, till she attains majority. The father of the minor claimant is permitted to withdraw the interest from the said deposit, once in three months directly from the Bank and utilize the same for her welfare. No Costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(AE)

/True Copy/

Sub-Assistant Registrar

To

Special Subordinate Judge/Motor Accident Claims Tribunal,
Tirunelveli.

Copy to:-

The Section Officer, V.R.Section,
Madurai Bench of Madras High Court,
Madurai

+One cc to Mr.M.P.Senthil, Advocate, SR.No.37235

+One cc to Mr.P.Prabhakaran, Advocate, SR.No.37087

PJL
RL/5C/3P/DB/2/9/2016

C.M.A. (MD) No.579 of 2016